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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/597,917	06/19/2000	Phillip Miller	14410US01	5563

7590 08/08/2007  
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EXAMINER
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FRANKLIN, JAMARA ALZAIDA

ART UNIT	PAPER NUMBER
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2876

MAIL DATE	DELIVERY MODE
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08/08/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

Application No.

09/597,917

Applicant(s)

MILLER, PHILLIP

Examiner

Jamara A. Franklin

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 15 June 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 9-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 12-14 is/are allowed.
- 6) ☒ Claim(s) 9-11 and 15 is/are rejected.
- 7) ☒ Claim(s) 16 and 17 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 3/07; 4/07; 5/07.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after allowance or after an Office action under *Ex Parte Quayle*, 25 USPQ 74, 453 O.G. 213 (Comm'r Pat. 1935). Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, prosecution in this application has been reopened pursuant to 37 CFR 1.114.

Applicant's submission filed on 6/15/07 has been entered.

### ***Claim Objections***

2. Claims 9, 11, and 16 are objected to because of the following informalities:

in claim 9, line 3, substitute "may be" with --is--;

in claim 11, line 3, substitute "may be" with --is--;

in claim 11, line 12, substitute "(e)" with --(d)--; and

in claim 16, line 5, substitute the first occurrence of "the" with --a--.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 9-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Spayth (US 4,013,958).

Spayth teaches

in an RF communication network having a communication channel, an access point and a portable terminal, the portable terminal having a transceiver which is selectively powered up or down to conserve energy, a method used by the portable terminal for gaining access to the communication network, comprising

- (a) powering up the transceiver;
- (b) sensing the communication channel for a first predetermined time;
- (c) if during the sensing of the communication channel the channel remained clear, transmitting to the access point; and
- (d) if during the sensing of the communication channel the channel did not remain clear, waiting for a second predetermined time, and branching to operation (b) (col. 4, line 53-col. 5, line 5);

the method wherein said first predetermined time is greater than or equal to the maximum time between the access point's transmissions when engaged in a communications exchange;

in an RF communication network having a communication channel, an access point and a portable terminal, the portable terminal having a transceiver which is selectively powered up or down to conserve energy, a method used by the portable terminal for gaining access to the communication network, comprising:

- (a) powering up the transceiver;

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- (b) resetting a retry count;
- (c) sensing the communication channel for a first predetermined time;
- (d) if the retry count is less than a threshold value, branching to operation (c), else, powering down the transmitter for a period of time before branching back to operation (a);

5. Claim 15 is rejected under 35 U.S.C. 102(b) as being anticipated by Malec et al. (US 4,973,952) (hereinafter referred to as 'Malec').

Malec teaches a method used by a sensing device for beginning a data exchange over an RF communication link with a polling device, wherein the polling device has an interpoll gap time, comprising:

- identifying that the RF communication link is clear throughout a period which is at least as long as the interpoll gap time (col. 15, lines 31-38); and
- transmitting a request for poll frame (col. 15, lines 57-60).

***Allowable Subject Matter***

6. Claims 12-14 are allowed.

7. Claims 16 and 17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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8. The following is a statement of reasons for the indication of allowable subject matter: the prior art of record fails to teach or fairly suggest either alone or in combination thereof:

regarding claim 12, a method used by a portable terminal for gaining access to a communication network comprising

(b) waiting for a first predetermined time in order to receive a synchronization message from the access point;

(c) sensing the communication channel for a second predetermined time to determine if the channel is busy;

(d) transmitting a request for poll to the access point if the channel is clear for the second predetermined time; and

(e) if the channel is busy during the second predetermined time, repeating operation (b);  
regarding claim 16, a method comprising:

(a) generating a pseudo-random number corresponding to a first pseudo-random time which is at least as long as the interpoll gap time;

(b) sensing a channel for a time substantially shorter than the first pseudo-random time;

(c) repeating operation (b) until the channel is detected as being busy, or the channel is detected as being clear at every sense until the first pseudo-random time is reached;

(d) if the channel is detected as being busy, executing a second pseudo-random time delay back-off and returning to operation (a); and

(e) if the channel has been detected as being clear for the entire first pseudo-random time period, transmitting a request for poll frame.


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***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jamara A. Franklin whose telephone number is (571) 272-2389. The examiner can normally be reached on Monday through Friday 8:00am to 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on (571) 272-2398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Jamara A. Franklin  
Examiner  
Art Unit 2876

JAF  
August 02, 2007